

Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 44/2014/EZ

Anil Kumar Singh

Applicant

Versus

State of Jharkhand &Ors.

Respondent(s)

Date of hearing: 30.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondent: Mrs. Aishwarya Rajyashree, Advocate for R-1, 2 & 4
Mr. Surendra Kumar, Advocate for R-3
Mr. Ashok Prasad, Advocate for SEIAA, Jharkhand

ORDER

The Issue raised

1. Grievance in this application is against failure of the Ranchi Municipal Corporation (RMC) to scientifically manage solid waste in accordance with statutory obligation under the Municipal Solid Wastes (Management & Handling) Rules, 2010 (now 2016 Rules) and constitutional obligation to provide clean environment to the citizens, which is part of right to life.

2. Case set out in the application is that waste generated in the city is thrown away on the street, roads, river and stream banks and in the city

garbage collection places etc. Most of it remains there, piling up later and choking the city's drainage lines specially the Harmu River which has now become a *nalah*(drain) due to ill management of the municipal solid waste policy of the RMC. The city has inadequate number of garbage bins and often resorts to practice of throwing waste on streets, in open spaces and drains. Very few localities have the system of collection of garbage from households and segregating them at source. It is the duty of the Local Bodies to develop drainage system for the transportation of sewage and to establish sewage treatment plant of desired capacity for the urban area but they are not doing so. Following steps have to be taken by the Municipal Authorities, namely;

“

- i. Organizing house-to-house collection of municipal solid wastes. through any of the methods, like community 'bin collection (central bin), house-to-house collection, collection on regular pre-informed timings and scheduling by using bell ringing of musical vehicle (without exceeding permissible noise levels);*
- ii. Devising collection of waste from slums and squatter areas or localities including hotels, restaurants, office complexes and commercial areas;*
- iii. Wastes from slaughter houses, meat and fish markets, fruits and vegetable markets, which are biodegradable in nature, shall be managed to make use of such wastes;*
- iv. Bio-medical wastes and industrial wastes shall- not be mixed with municipal solid wastes and such wastes shall follow the rules, separately specified for the purpose;*
- v. Collected waste from residential and other areas shall be transferred to community bin by hand-driven containerized carts or other small vehicles;*
- vi. Horticultural and construction or demolition wastes or debris shall be separately collected and disposed off following proper norms. Similarly, wastes generated at dairies shall be regulated in accordance with the State laws;*
- vii. Waste (garbage, dry leaves) shall not be burnt;*

viii. *Stray animals shall not be allowed to move around waste storage facilities or at any other place in the city or town and shall be managed in accordance with the State laws.*

ix. *The municipal authority shall notify waste collection schedule and the likely method to be adopted for public benefit in a city or town.*

x. *It shall be the responsibility of generator of wastes to avoid littering and ensure delivery of wastes in accordance with the collection and segregation system to be notified by the municipal authority as per Para 1(2) of this Schedule.”*

Procedural History – response of the authorities

3. The application was filed on 17.12.2014 and came up for hearing first time on 07.01.2015. The Tribunal issued notice to the respondents, including the RMC, State PCB and Urban Development Department of the State. The State PCB was required to submit a status report and also to take necessary measures to remedy the violations.

4. The respondents have filed their respective replies. Response has also been filed to some of the directions issued from time to time in the last more than seven years. Apart from the present matter, the general issue of scientific handling and management of solid waste was taken up by this Tribunal on transfer of proceedings before the Hon'ble Supreme Court in Writ Petition No. 888/1996, *Almitra H. Patel vs. Union of India &Ors.* to this Tribunal, vide order dated 02.09.2014. In the said matter, after hearing all the States/UTs, the Tribunal disposed of the matter and directed strict compliance of the statutory rules vide judgment dated 22.12.2016¹. Before transferring the matter to this Tribunal, the Hon'ble Supreme Court gave directions inter-alia in (2000) 2 SCC 679 and (2004) 13 SCC 538. The Hon'ble Supreme Court also noted that the rules were being used by the States as excuse to milk funds from the Centre and inflating waste processing costs. Further, in *Municipal Council, Ratlam vs.*

¹(2016) SCC Online NGT 2981

*Vardhichand*² and *B.L. Wadhera v. Union of India and Ors.*³, it was observed that local bodies and States could not avoid responsibility of providing clean environment on the ground of financial inability.

5. After judgement dated 22.12.2016, the Tribunal took up the execution of the said directions in OA No. 606/2018 vide order dated 20.08.2018. The issue of sewage management was also considered in the light of directions of the Hon'ble Supreme Court in *Paryavaran Suraksha vs. Union of India*⁴. Vide order dated 16.01.2019 of the Tribunal, the Chief Secretaries of all the States/UTs were required to remain present in person before this Tribunal along with the compliance status on the issues. After interaction with the Chief Secretaries of all States/UTs, directions were issued to ensure compliance of the statutory rules within six months. In view of continuous failure resulting in damage to environment and public health, it was directed that Chief Secretaries must personally monitor the progress at least once in a month. The District Magistrates were to personally monitor compliance at least once in two weeks. In case of Jharkhand, order of this Tribunal in OA No. 606/2018 is dated 12.07.2019. In the light of said orders, no separate order was required thereafter. However, the proceedings have remained pending in the present matter separately.

6. Finding lack of compliance, the Tribunal, vide further order dated 28.02.2020, laid down following scale for compensation in case of continuing failure to remediate legacy waste and ensuring compliance after the statutory timeline was over. Relevant extracts from the said order are:

²(1980) 4 SCC 162

³(1996) 2 SCC 594

⁴(2017) 5 SCC 326

“xxxxxx.....xxx

41. In view of above, consistent with the directions referred to in Para 29 issued on 10.01.2020 in the case of UP, Punjab and Chandigarh which have also been repeated for other States in matters already dealt with, we direct:

- a. In view of the fact that most of the statutory timelines have expired and directions of the Hon'ble Supreme Court and this Tribunal to comply with Solid Waste Management Rules, 2016 remain unexecuted, interim compensation scale is hereby laid down for continued failure after 31.03.2020. The compliance of the Rules requires taking of several steps mentioned in Rule 22 from Serial No. 1 to 10 (mentioned in para 12 above). **Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body from 01.04.2020 till compliance. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal.** Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today. CPCB may prepare a template and issue an appropriate direction to the State PCBs/PCCs for undertaking such an assessment in the light thereof within one month.
- b. Legacy waste remediation was to 'commence' from 01.11.2019 in terms of order of this Tribunal dated 17.07.2019 in O.A. No. 519/2019 para 28⁵ even though statutory timeline for 'completing' the said step is till 07.04.2021 (as per serial no. 11 in Rule 22), which direction remains unexecuted at most of the places and delay in clearing legacy waste is causing huge damage to environment in monetary terms as noted in para 33 above, pending assessment and recovery of such damage by the concerned State PCB within four months from today,

⁵ The Chief Secretaries may ensure allocation of funds for processing of legacy waste and its disposal and in their respective next reports, give the progress relating to management of all the legacy waste dumpsites. Remediation work on all other dumpsites may commence from 01.11.2019 and completed preferably within six months and in no case beyond one year. Substantial progress be made within six months. We are conscious that the SWM Rules provide for a maximum period of upto five years for the purpose, however there is no reason why the same should not happen earlier, in view of serious implications on the environment and public health.

continued failure of every Local Body on the subject of commencing the work of legacy waste sites remediation from 01.04.2020 till compliance will result in liability to pay compensation at the rate of Rs. 10 lakh per month per Local Body for population of above 10 lakhs, Rs. 5 lakh per month per Local Body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other Local Body. If the Local Bodies are unable to bear financial burden, the liability will be of the State Governments with liberty to take remedial action against the erring Local Bodies. Apart from compensation, adverse entries must be made in the ACRs of the CEO of the said Local Bodies and other senior functionaries in Department of Urban Development etc. who are responsible for compliance of order of this Tribunal. Final compensation may be assessed and recovered by the State PCBs/PCCs in the light of Para 33 above within six months from today.

- c. Further, with regard to thematic areas listed above in para 20, steps be ensured by the Chief Secretaries in terms of directions of this Tribunal especially w.r.t. plastic waste, bio-medical waste, construction and demolition waste which are linked with solid waste treatment and disposal. Action may also be ensured by the Chief Secretaries of the States/UTs with respect to remaining thematic areas viz. hazardous waste, e-waste, polluted industrial clusters, reuse of treated water, performance of CETPs/ETPs, groundwater extraction, groundwater recharge, restoration of water bodies, noise pollution and illegal sand mining.*
- d. The compensation regime already laid down for failure of the Local Bodies and/or Department of Irrigation and Public Health/In-charge Department to take action for treatment of sewage in terms of observations in Para 36 above will result in liability to pay compensation as already noted above which are reproduced for ready reference:
 - i. Interim measures for phytoremediation/bioremediation etc. in respect of 100% sewage to reduce the pollution load on recipient water bodies – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per drain by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
 - ii. Commencement of setting up of STPs – 31.03.2020. Compensation is payable for failure to do so at the rate of Rs. 5 lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2020.*
 - iii. Commissioning of STPs – 31.03.2021. Compensation is payable for failure to do so at the rate of Rs. 10**

lakh per month per STP by concerned Local Bodies/States (in terms of orders dated 28.08.2019 in O.A. No. 593/2017 and 06.12.2019 in O.A. No. 673/2018) w.e.f. 01.04.2021.

- e. *Compensation in above terms may be deposited with the CPCB for being spent on restoration of environment which may be ensured by the Chief Secretaries' of the States/UTs.*
- f. *An 'Environment Monitoring Cell' may be set up in the office of Chief Secretaries of all the States/UTs within one month from today, if not already done for coordination and compliance of above directions which will be the responsibility of the Chief Secretaries of the States/UTs.*
- g. *Compliance reports in respect of significant environmental issues may be furnished in terms of order dated 07.01.2020 quarterly with a copy to CPCB."*

7. The above order is applicable to the State of Jharkhand also.

Further Consideration today and directions in the light of status report dated 20.5.2022

8. Reference to orders passed from time to time in the present case shows that progress shown by the State appears to be in the form of paper notings for issuing tenders and other processes without actual execution on the ground. We may now refer to the latest status report in the affidavit filed by the RMC on 20.05.2022. As per Annexure-A to the affidavit containing minutes of the meeting of the State Level Technical Committee under the Chairmanship of Secretary, Urban Development on 12.04.2022, the status of legacy waste projects in 11 municipalities is mentioned as follows:

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4. Director, SUDA, UD&HD informed the Committee that DPRs of Legacy Waste Remediation Projects for 11 Cities viz. Ranchi, Dhanbad, Jamshedpur, Mango, Adityapur, Chas, Giridih, Deoghar, Ramgarh, Hazaribagh and Bundu have been prepared. The details of such 11 Legacy Waste Remediation projects along with its funding pattern are enumerated below, which needs to be concurred by the State Level Technical Committee:

S. N.	ULB's Name	Population (as per 2011)	Legacy Waste Qty. (in tons)	Area under Dump site (in acres)	Per ton cost of remediatio n (Rs.)	Project cost (in Cr.)	Project cost as per SBMU 2.0 guide line (in Cr.) Rs. 550/ ton	Funding Pattern			Land to be recovered (Acres)
								Central Share (in Cr.)	State Share cost (in Cr.)	ULBs Share (15 th FC) (in Cr.)	
1	Dhanbad Nagar Nigam	1162472	195768.5	11.10	982.56	19.24	10.77	2.69	3.08	13.47	8.39
2	Giridih Nagar Nigam	181632	132772	3.5	980.44	13.02	7.30	2.41	2.86	7.74	2.63
3	Hazaribagh Nagar Nigam	197466	144332	7.33	858.70	12.30	7.94	2.62	2.73	7.05	5.50
4	Chas Nagar Nigam	156888	54383	1.34	606.76	5.28	2.99	0.99	1.16	3.13	101
5	Ramgarh Nagar Parishad	123875	177814	10.66	806.64	14.34	9.78	3.23	3.16	7.96	800
6	Ranchi Nagar Nigam	1073427	180385.8	31.3	754.86	136.17	99.21	24.80	21.79	89.58	23.48
7	Deoghar Nagar Nigam	203123	102199	3.90	994.76	10.17	5.82	1.85	2.24	6.02	2.93
8	Jamshedpur NAC	677350	47932	3.23	837.11	4.01	2.64	0.87	0.89	2.26	2.42
9	Mango Nagar Nigam	223805	17214	1.14	931.06	1.60	0.95	0.31	0.35	0.94	0.86
10	Adityapur Nagar Nigam	174355	6509	0.44	1,379.85	0.90	0.36	0.12	0.20	0.58	0.33
11	Bundu Nagar Panchayat	21054	17618	2.35	1,194.33	2.10	0.97	0.48	0.69	0.93	1.76
Total		4195447	2682781.53	74.03	809.29	217.1	147.6	39.89	38.44	138.78	55.5

9. The above chart shows extremely unsatisfactory state of affairs to the detriment of public health, environment and rule of law. Adequate waste processing facilities are not shown to have been established nor adequacy of sewage management is shown. There appear to be discrepancies in estimation of project costs for Dhanbad, Ranchi and Bundu Nagar. As per Annual Report of CPCB (2019 - 20), 2188.9 TPD waste is generated and only 731.76 TPD is treated/ processed and thus 1179.76 TPD is landfilled in the State with 42 ULBs.

10. It seems the State is not doing its primary duty of waste management on the pretext of waiting for central funds, contrary to the directions of the Hon'ble Supreme Court and this Tribunal. Irrespective of availability of central funds, the State cannot delay handling of waste for indefinite period. In the present case, even after continuous monitoring and directions for seven years, the State is avoiding its Constitutional responsibility, unconcerned with the welfare of suffering people. Rules are being violated which is a criminal offence under the law of the land. Further, there is a continued violation of the judgments of the Hon'ble Supreme Court requiring scientific management of the waste as well as sewage, including judgement in Paryavaran Suraksha, fixing outer timeline of March 2018 and also in Almitra Patel (Supra) on the issue of solid waste management, in terms of statutory timelines which are over. There is also breach of binding order of this Tribunal dated 28.02.2020 quoted above, which is the responsibility of the Chief Secretaries of the State.

11. In view of above, we direct the Chief Secretary, Jharkhand to take further stringent action in the matter to comply with constitutional and statutory duty of the State to its citizens for scientific handling of the solid waste as well as sewage. We also direct the RMC to deposit interim

compensation of Rs. 2 crores with the State PCB for being utilized for restoration of the environment, in the light of order of this Tribunal dated 28.02.2022. The Chief Secretary, Jharkhand may enforce this direction.

The application is disposed of.

A copy of this order be forwarded to Chief Secretary, Jharkhand by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

B. Amit Sthalekar, JM

Arun Kumar Tyagi, JM

Saibal Dasgupta, EM

Dr. Afroz Ahmad, EM

May 30, 2022
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